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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,266	02/15/2001	Nicholas J. Bonge JR.	HR-63621	4936

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EXAMINER

TRIEU, VAN THANH

ART UNIT PAPER NUMBER

2632

DATE MAILED: 10/02/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/788,266

Applicant(s)

BONGE, NICHOLAS J.

Examiner

Van T Trieu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 February 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-20 is/are allowed.
- 6) ☒ Claim(s) 21-23,25 and 29-31 is/are rejected.
- 7) ☒ Claim(s) 24, 26-28 and 32-35 is/are objected to.
- 8) ☒ Claim(s) 1-35 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-20, drawn to the transmitter device for animal training and controlling, classified in class 340, subclass 573.3.
  - II. Claims 21-35, drawn to the door movement is controlled by a transmitter means, classified in class 340, subclass 545.2 or 545.3.

2. The inventions are distinct, each from the other because:

Inventions of Group I and Group II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the transmitter means is adapted to use by an owner/trainer for training, monitoring and/or controlling the animal/pet worn a response receiver, while the door panel is adapted to mount with a receiver means for receiving signals from the transmitter means worn by a pet/animal for controlling to open/close of that door.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

7 contact attorney?

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-23, 25 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lee et al** [US 3,897,753] in view of **McCuistion III et al** [US 5,265,371].

Regarding claim 21, the claimed casing defining a door opening, the panel movably connected to the casing within the door opening and the motor attached to the casing (casing 420 includes a pet door 421 which is movable to open/close and a control solenoid 122 attached to the casing 420 for controlling to operate the door 421, see

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Figs. 4A and 4B, col. 4, lines 34-65); and the signaling means worn by a pet (sonic transducer pet key 110 worn on a pet for transmitting ultrasonic signal, see Figs. 1 and 2, col. 3, lines 49-52 and col. 14, lines 50-57); and the motor selectively moving the panel to open the door in response to the signaling means (the control solenoid 122 is used for selectively locking or unlocking a door 421 under control of the pet worn key 110, see col. 4, lines 49-68 and col. 5, lines 1-6); but **Lee et al** fails to disclose the cable having a first cable end attached to the motor and having a second cable end attached to the panel. However, **Lee et al** teaches that the control solenoid 122 is adapted to slide bolt 416 in the direction of arrow 418 to lock or unlock door 421 to provide selective access in response to the pet wearing a key 110 so that the pet can enter or leaving the residence through hinges 430 for freely attaching the door 421 to the casing 420, see Figs. 4A and 4B, col. 4, lines 48-60. **McCuistion III et al** suggests that a contain chamber 1 includes a set of double door 3 which is connected with cables 13, 30 and other connecting means to a solenoid 14 that will energize when a rat or other animal touching the bait to trigger the solenoid 14 to open the door 3 via cables 13 and 30, see Figs. 2-4, col. 2, lines 13-61. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the slide bolt connected to the solenoid for opening/closing the door of **Lee et al** for the cable connected to the solenoid for opening/closing the door of **McCuistion III et al** since either slide bolt or cable is adapted to operate the door movement, wherein the cable is simple and easier to open or to close the door.

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Regarding claim 22, all the claimed subject matters are discussed between **Lee et al** and **McCuistion III et al** in respect to claim 21 above, and including the pivot 12 is functionally equivalent to the spool for controlling the length and movement of the cable 13, 30, see Fig. 2 of **McCuistion III et al**).

Regarding claim 23, all the claimed subject matters are discussed between **Lee et al** and **McCuistion III et al** in respect to claim 21 above, and including the free ends of cables 13, 30 are attached to the latches 28, see Fig. 2.

Regarding claim 25, all the claimed subject matters are discussed between **Lee et al** and **McCuistion III et al** in respect to claim 21 above, and including the pulleys 20, see Fig. 2.

Regarding claim 29, all the claimed subject matters are discussed between **Lee et al** and **McCuistion III et al** in respect to claim 21 above.

Regarding claim 30, all the claimed subject matters are discussed between **Lee et al** and **McCuistion III et al** in respect to claim 21 above, and including the first cable 13 and second cable 30, see Fig. 2 of **McCuistion III et al**

Regarding claim 31, all the claimed subject matters are discussed between **Lee et al** and **McCuistion III et al** in respect to claims 23 and 30 above.

***Conclusion***

5. Claims 1-20 are allowable over the prior art.
6. Claims 24, 26-28 and 32-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.  
**Lee, et al** discloses an electronic lock and key system for controlling access. [US 4,036,178]  
**Lely et al** discloses a device for maintaining dairy animals and surface areas where they may be confined in a clean condition and providing a station for feeding, milking and elimination of wastes. [US 5,195,455]
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to primary examiner **Van Trieu** whose telephone number is (703) 308-5220. The examiner can normally be reached on Mon-Fri from 7:00 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. **Jeffery Hofsass** can be reached on (703) 305-4717.

The office facsimile number is (703) 872-9314.

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A handwritten signature in black ink, appearing to read 'Van Trieu', with a long horizontal stroke extending to the right.

**Van Trieu**  
**Primary Examiner**  
**Date: 9/30/02**